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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,204	10/28/2003	John E. Dunn	2039.017700	4498

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/695,204

Applicant(s)

DUNN, JOHN E.

Examiner

William K. Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-11,13-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 11,13-17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The request filed on June 13, 2005 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 10/695,204 is acceptable and a RCE has been established. An action on the RCE follows.

2. In view of amendment filed June 23, 2005, claims 2, 12, and 18 have been cancelled. Claims 1, 3, 4, 7-11, 13-17, 19 are pending. Claims 11, 13-17, 19 are drawn to non-elected subjected matter. Claims 1, 3, 4, 7-10 are examined with merit.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1, 3, 4, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birbaum et al. (US 5,760,111) in view of Ciba Literature on Tinuvin®1577 FF and Ciba Literature on Tinuvin®765.

*The invention of claims 1, 3, 4, 7-10 relates to a **composition**, comprising:  
at least about **5 wt% of a monovinylarene-conjugated diene copolymer**;  
from about **0.1 wt% to about 2.5 wt% of an ultraviolet (UV) absorber**; and  
from about **0.1 wt% to about 2.5 wt% of a light stabilizer**; and wherein the UV  
absorber further comprises **2-(2H-benzotriazol-2-yl)-4,6-ditertpentylphenol or 2-(4,6-  
diphenyl-1,3,5-triazin-2-yl)-5-(hexyl)oxylphenol**; and wherein the HALS comprises  
**methyl 1,2,2,6,6-pentamethyl-4-piperidyl sebacate**.*

Birbaum et al. (col. 9, line 49-64) teach polymeric composition comprising a monovinylarene-conjugated diene copolymers as the major ingredient of a composition. Therefore, applicants' claimed "at least about 5 wt%" of claim 1, "at least about 50 wt%" of claim 3, and "at least about 95 wt%" of claim 4, are inherently possessed in Birbaum et al. Further, Birbaum et al. (col. 12, line 14-25) teach that the polymeric composition to comprise from 0.01 to 5 wt% of two or more compounds of formula (1) (col. 1, line 13-39) which is a compound comprising a phenol group and a triazin group, and one or

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more further stabilizers which include the HALS (col. 15, line 27-28) as claimed in applicants' claim 8.

The difference between the invention of claims 1, 3, 4, 7-10 and Birbaum et al. is that Birbaum et al. are silent on the specific structures of 2-(2H-benzotriazol-2-yl)-4,6-ditertpentylphenol and 2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyl)oxylphenol. Further, another difference between the invention of claims 1, 3, 4, 7-10 and Birbaum et al. is that Birbaum et al. are silent on HALS that comprises methyl 1,2,2,6,6-pentamethyl-4-piperidyl sebacate.

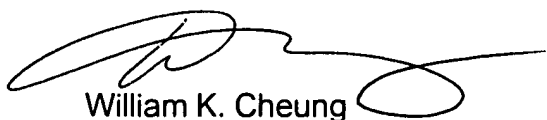
Birbaum et al. (col. 1, line 13-39) clearly teach a structure that generically includes the structure as claimed. Therefore, motivated by the expectation of success of preparing a polymeric composition with improved photochemical and thermal stabilization (col. 1, line 1-12), it would be apparent to one of ordinary skill in art to appreciate the value of Tinuvin® 1577 FF after reading the disclosure to Birbaum. Therefore, it would have been obvious to one of ordinary skill in art to use the generic structure teachings in Birbaum et al. and the literature teachings of Tinuvin® 1577 FF to obtain the Tinuvin® 1577 FF feature of claims 1, 3, 4, 7-10. Further, motivated by the expectation of using Tinuvin® 765 to improve weather ability of variety of polymers, it would have been obvious to one of ordinary skill in art to add Tinuvin® 765, which comprises methyl 1,2,2,6,6-pentamethyl-4-piperidyl sebacate, into the composition of Birbaum et al. to obtain the invention of claims 1, 3, 4, 7-10.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung

Primary Examiner

June 16, 2005

**WILLIAM K. CHEUNG  
PRIMARY EXAMINER**